



Paper No. 4

MACMILLAN SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA FOURTH FLOOR  
720 WATER STREET  
TOLEDO OH 43604-1619

In re Application of:  
Rennetaud, *et al.*  
Application No. 10/034,008  
Filed: January 3, 2002  
Attorney Docket No. 15818 US

**COPY MAILED**

DEC 13 2002

**OFFICE OF PETITIONS**

**DECISION ON  
PETITION**

## **I. BACKGROUND**

This is a decision on the March 18, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of December 20, 2001, rather than the presently accorded filing date of January 3, 2002.

## **II. THE RULE**

*37 C.F.R. § 1.10 Filing of correspondence by "Express Mail."*

(a)...

(b)...

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d)...

...

#### IV. ANALYSIS

Petitioner alleges that the application was deposited in Express Mail service on December 20, 2001. In support, the petition is accompanied by copies of the USPS.com tracking report for Express Mail label number EL588510702US, and the application cover sheet.

However, the plain language of the rule cited above states that a copy of the Express Mail label is required in order to receive favorable consideration under this rule. No reason has been suggested as to why this requirement has not been met.

It is noted that the USPS.com tracking report does tend to support Petitioner's claim. It is suggested that if Petitioner desires reconsideration of this issue, Petitioner should either file a true copy of the Express Mail label as required by the rule or file a petition under 37 C.F.R. §1.183 requesting waiver of the rules regarding the requirement that the copy be included.

#### V. CONCLUSION

In view of the above, *this petition is **dismissed**.*

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10(c)".

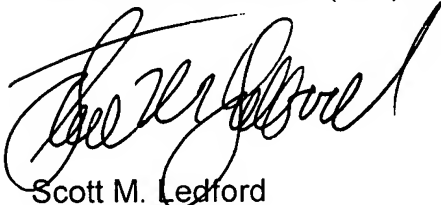
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
Four Crystal Plaza, Suite 3C23  
2201 South Clark Place  
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.



Scott M. Ledford  
Attorney  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Examination Policy